



DEPARTMENT OF CONSERVATION

OFFICE OF MINE RECLAMATION

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NOTICE

December 28, 2006

TO: ALL SMARA LEAD AGENCIES

SUBJECT: NEW SMARA REQUIREMENTS – REVIEW AND APPROVAL OF RECLAMATION PLANS, PLAN AMENDMENTS, AND FINANCIAL ASSURANCES

The purpose of this notice is to alert you to changes in law that may affect your process for reviewing and approving reclamation plans, reclamation plan amendments, and financial assurances for surface mining operations within your jurisdiction.

Prior to approving a surface mining operation's reclamation plan, financial assurances, or any amendments, the Surface Mining and Reclamation Act of 1975 (SMARA) requires lead agencies to submit these documents to the Director of the Department of Conservation (Director) for review. The Director has 30 days from the date of receipt of a reclamation plan or plan amendment, and 45 days from the date of receipt of financial assurances, to prepare written comments. Current law requires lead agencies to prepare a written response to the Director's comments, describing the disposition of the major issues raised.

Recent legislation (Senate Bill 668, Kuehl, Chapter 869, Statutes of 2006), effective January 1, 2007, adds Public Resources Code (PRC) Section 2772.7 and amends PRC Section 2774 to require the following:

- **Advance submission of lead agency response.** A lead agency must submit a proposed response to the Director's written comments at least 30 days prior to approval of a reclamation plan, plan amendment, or financial assurance.
- **Description of proposed adoption of comments.** In its proposed response to the Director, the lead agency must describe whether it proposes to adopt the Director's comments. If it does not propose to adopt the comments, it must specify, in detail, the reason(s) for not doing so.
- **Advance notice of hearing or intent to approve.** A lead agency must give the Director at least 30 days' notice of the time, place, and date of the hearing before the lead agency at which time the reclamation plan, plan amendment, or financial assurance is scheduled to be approved by the lead agency. If no

hearing is required, then the lead agency must provide 30 days' notice to the Director that it intends to approve the reclamation plan, plan amendment, or financial assurance.

- **Submission of final response.** The lead agency must send the Director its final response to the Director's comments within 30 days following its approval of the reclamation plan, plan amendment, or financial assurance.
- **Recordation of approval.** Upon approval of a reclamation plan or an amendment to a reclamation plan, a lead agency must record a "Notice of Reclamation Plan Approval" with the county recorder. The notice must read:

"Mining operations conducted on the hereinafter described real property are subject to a reclamation plan approved by the _____, a copy of which is on file with the _____."

These changes will become effective on January 1, 2007. Please address all proposed responses to comments, advance notices of hearings or the intent to approve a reclamation plan, plan amendment, or financial assurance, and final responses to comments as follows:

Department of Conservation
Office of Mine Reclamation
801 K Street, MS 09-06
Sacramento, CA 95814
Attention: Douglas W. Craig, Assistant Director

For your assistance, a copy of the full text of PRC Sections 2772.7 and 2774 is enclosed. This notice is not intended to address every change to SMARA as a result of Senate Bill 668. It is therefore recommended that you review this legislation in detail to become familiar with all of the changes taking effect on January 1, 2007. The text of Senate Bill 668 can be found at the following website:

<http://www.leginfo.ca.gov/bilinfo.html>

If you have any questions regarding the implementation of these new SMARA requirements, please contact this office at (916) 323-9198.